

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re : Chapter 11 Case No.
VALUE CITY HOLDINGS, INC., et al., : 08-14197 (JMP)
Debtors. : Jointly Administered
X

**ORDER
ESTABLISHING MEDIATION PROCEDURES GOVERNING ALL
ADVERSARY PROCEEDINGS BROUGHT PURSUANT TO 11 U.S.C. § 547**

The Court, having considered the motion (the “Motion”) dated May 10, 2011, of Value City Holdings, Inc., along with its affiliated entities, as a Debtor and Liquidating Company (“Value City” or the “Debtor”), for an order pursuant to sections 105(a), 547 and 550 of title 11, United States Code (the “Bankruptcy Code”) and General Order M-211 of the United States Bankruptcy Court for the Southern District of New York, establishing procedures for conducting mediations for all remaining preference actions brought by Value City under sections 547 and 550 of the Bankruptcy Code (collectively the “Preference Actions”); as well as the objections filed to the Motion; and the Court having conducted conferences on May 25, June 22 and July 27, 2011; and the Court having jurisdiction to consider and determine the Motion as a core proceeding in accordance with 28 U.S.C. §§ 157, 1331 and 1334; and due notice of the Motion having been provided; it is hereby

ORDERED that the following non-binding mediation procedures are established for the Preference Actions.

ORDERED that any defendant to a Preference Action may elect to opt in to the mediation procedures contained herein. To opt in, a defendant shall complete an election form, substantially in the form attached hereto as Exhibit A, and return it to plaintiff's counsel so as to

be received no later than August 31, 2011. Any defendant who does not elect mediation by August 31, 2011 will not be able to subsequently elect mediation pursuant to this Order except for good cause shown.

ORDERED that John Byrne, Francis G. Conrad, Andrew Eckstein, Neil P. Forrest, Barry S. Gold, Eric Haber, Claude Montgomery, and Margaret L. Shaw are hereby designated as the mediators for the Preference Actions. Any defendant who elects mediation shall select one of these individuals to mediate its particular adversary proceeding. Other than as provided herein, each mediator shall be empowered to conduct the mediation as he or she sees fit, including, but not limited to, mediation scheduling, mediation deposits, the form and content of mediation statements, etc.

ORDERED that the mediation shall take place at a time and location chosen by the mediator. The mediator shall inform counsel for Value City of the mediation time and location, and counsel for Value City shall inform the respective preference defendant of the mediation time and location by letter. While the principal(s) (or such other person with authority to make decisions and bind such party) of both parties should attend, the mediator shall have full discretion to consider and grant requests for principals and/or counsel to participate telephonically.

ORDERED that all mediations shall be scheduled so as to be concluded by November 1, 2011.

ORDERED that one week prior to the mediation, the parties shall submit confidential mediation statements to the mediator outlining their principal claims or defenses. These statements shall not exceed 10 double-spaced pages.

ORDERED that should any party elect mediation and fail to attend the mediation, Value City shall report that failure to the Court. Should any party that attends mediation fail to cooperate with the mediator, the mediator shall report that failure to the Court. In either case, the Court in its discretion may award any relief that it deems appropriate.

ORDERED that the parties shall divide the costs and fees of the mediator evenly between them. Should any party fail to pay the costs and fees of the mediator, Value City shall be empowered to move this Court to compel such payment.

ORDERED that should the mediation fail to resolve the Preference Action, the parties shall have the lesser of (i) 90 days, or (ii) the period, if any, remaining in a specific order, Court directive or agreement governing fact discovery in a particular adversary proceeding, to complete fact discovery. Following the close of fact discovery, expert discovery (if any time still remains) will continue as provided for in the September 9, 2009 Order Establishing Procedures Governing All Adversary Proceedings Brought Pursuant to 11 U.S.C. § 547, or as previously provided for by the parties. The parties shall submit a joint pre-trial stipulation thirty days after the conclusion of mediation, unless there will be expert discovery (assuming the deadline has not already expired), in which case pre-trial stipulations will be submitted 30 days after the close of expert discovery. No dispositive motions shall be made before mediation has been conducted without prior leave of the Court.

ORDERED that any deviation from the procedures set forth in this order shall be allowed only by further order of the Court for good cause shown.

ORDERED that nothing, except as discussed specifically herein, shall affect the Court's September 9, 2009 Order Establishing Procedures Governing All Adversary Proceedings

Brought Pursuant to 11 U.S.C. § 547 as well as any general case management orders governing the main bankruptcy proceedings.

ORDERED that election of mediation shall not impede or otherwise affect discovery or trial in any pending adversary proceeding.

Dated: New York, New York

August 8, 2011

s/ James M. Peck
HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
: :
VALUE CITY HOLDINGS, INC., et al., : Chapter 11
: Case No. 08-14197 (JMP)
Debtors. : (Jointly Administered)
:
-----x
VALUE CITY DEPARTMENT STORES, LLC, :
: :
Plaintiff, :
: :
v. : Adv. Pro. No. ____ (JMP)
_____, :
: :
Defendant. :
-----x

ELECTION REGARDING MEDIATION

- DEFENDANT ELECTS MEDIATION IN ACCORDANCE WITH THE ORDER ESTABLISHING PROCEDURES GOVERNING ALL ADVERSARY PROCEEDINGS BROUGHT PURSUANT TO 11 U.S.C. § 547.

Defendant hereby designates the following person to serve as the mediator:

- John Byrne
- Francis G. Conrad
- Andrew Eckstein
- Neil P. Forrest
- Barry S. Gold
- Eric Haber
- Claude Montgomery
- Margaret L. Shaw

To facilitate the scheduling of the mediation, please indicate three (3) days between September 6, 2011 and November 1, 2011 on which Defendant is available for mediation.

(1) _____

(2) _____

(3) _____

Dated: August _____, 2011

By: _____

Its: _____
An Authorized Representative